



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 10.03.2016

CORAM

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

W.P (MD) No. 14186 of 2015

and

M.P (MD) No. 1 of 2015

T. Sekar

..Petitioner

Vs

1. The Inspector of Panchayats/District Collector,
Thanjavur District,
Thanjavur.

2. Tmt. Valarmathi,
8th Ward Member,
Devananchery Village Panchayat,
Kumbakonam Taluk,
Thanjavur District.

..Respondents.

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari calling for the records of the first respondent relating to his impugned order in Na.Ka.No.2365/2015/A3, dated 26.07.2015 and to quash the same.

For Petitioner : Mr.S.Rajaprabu

For Respondent-1 : Mr.K.Mahesh Raja
Govt.Advocate

For Respondent-2 : No appearance

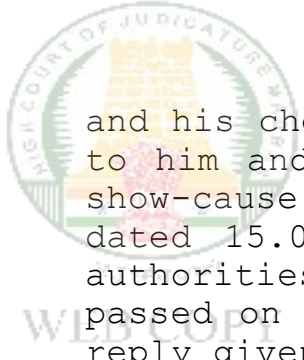
ORDER

The Petitioner seeks for a Writ of Certiorari calling for the records of the first respondent relating to his impugned order in Na.Ka.No.2365/2015/A3, dated 26.07.2015 and to quash the same.

2. Heard the submissions made on either side and perused the records.

<https://hcservices.ecourts.gov.in/hcservices/>

3. The only ground which has been raised by the Writ Petitioner is that he is the Vice-President of Devananchery Village Panchayat



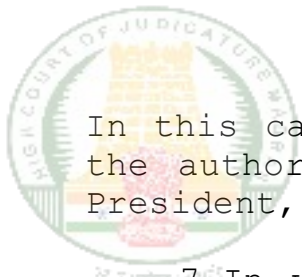
and his cheque signing power has been withdrawn without any notice to him and without considering his explanation and thereafter, a show-cause notice has been issued, for which, he issued a reply, dated 15.07.2015, which has also been duly acknowledged by the authorities concerned on 16.07.2015. The impugned order has been passed on 26.07.2015 ten days thereafter, without considering the reply given by the Petitioner to the show-cause notice.

4. In this regard, the learned counsel for the Petitioner relied on a judgement of the Division Bench of this Court in the case of *Pugazhendran .vs. B.G.Babu reported in 2005(1) CTC 545*, for the proposition that the authority cannot pass an order without giving an opportunity, but it need not be a personal hearing. But definitely, in this case, the reply given by the Petitioner has not been considered by the authorities concerned and hence, the impugned order is erroneous and is in violation of the principles of natural justice.

5. Though the learned Government Advocate appearing for the first respondent would contend that serious irregularities has been committed by the Petitioner and that the reply submitted by the Petitioner is duly considered and then only based on the resolution passed by the Panchayat, the impugned order has been passed.

6. Be that as it may, once a reply has been given by the Petitioner on the show- cause notice issued by the authorities, the authorities is bound to look into the same and pass orders in accordance with law. Therefore the impugned order passed by the authorities concerned is in violation of the principles of natural justice, as per the judgement reported in *2005(1) CTC 545 (Pugazhendran .vs. B.G.Balu)* and the relevant portion reads as under:

''27. We would however point out that before granting prior approval it would be the duty of the Inspector of Panchayats (District Collector) to give a hearing to the Vice-President or (President, as the case may be) (which need not be a personal hearing as already mentioned above), and apply his mind and decide by a written order giving reasons as to whether in his opinion, the Vice-President (or President, as the case may be) is refusing to sign the cheque for ulterior motive, or for genuine reasons in the interest of the village Panchayat. It will be the duty of the Inspector of Panchayats, to decide this matter objectively and impartially without being influenced by any extraneous pressures or considerations. If the refusal to sign the cheque is for good and genuine reasons in the interest of the village Panchayat, the Inspector should refuse approval, but if it is for extraneous considerations or is mala fide he should grant it.''



In this case, in the impugned order, no reason has been given by the authority regarding the reason for not signing by the Vice-President, which also vitiates the order.

7. In view of the foregoing discussions, the Writ Petition is allowed and the impugned order in Na.Ka.No.2365/2015/A3, dated 26.7.2015 passed by the first respondent is set aside and the matter is remitted back to the authorities concerned to consider the reply of the Petitioner dated 15.7.2015 and pass orders on merits and in accordance with law. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar

/True Copy/

Sub-Assistant Registrar

To

The Inspector of Panchayats/District Collector,
Thanjavur District,
Thanjavur.

+One cc to Mr.S.Rajaprabu, Advocate, SR.No.13665
+One cc to The Special Government Pleader, SR.No.13876

vsn
RL/4C/JGB/DP/22/3/2016

W.P(MD)No.14186 of 2015
and
M.P(MD)No.1 of 2015

10.03.2016